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Tr.C.M.P.No.396 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Tr.C.M.P.No.396 of 2024 & C.M.P.No.8301 of 2024

Y.Vijayalakshmi

.. Petitioner

Vs

K.Yuvaraja

.. Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the C.P.C., to withdraw the case in F.C.O.P.No.381 of 2022 pending on the file of the learned Family Court, Erode and transfer the same to the file of the learned Subordinate Judge, Tiruchengode to be tried along with HMOP No.17 of 2022.

For Petitioner : Mr.J.Kather Hussain
For Respondent : Mr.R.Muralidharan

ORDER

I heard both sides. I have gone through the affidavit.

2.This transfer petition is at the instance of the wife. She seeks withdrawal of F.C.O.P.No.381 of 2022 from the file of the learned Family Court, Erode and transfer the same to the file of the learned Subordinate Judge, Tiruchengode.



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3.The petitioner married the respondent on 19.11.2020. Due to disputes and differences, the parties have separated. The petitioner/wife initiated proceedings in H.M.O.P.No.17 of 2022 for divorce before the learned Subordinate Judge at Tiruchengode. The respondent/husband initiated proceedings in F.C.O.P.No.381 of 2022 before the learned Family Court, Erode for restitution of conjugal rights. Pleading that the wife is a permanent resident of Tiruchengode and unable to travel from Tiruchengode to Erode for the hearing in FCOP No.381 of 2022 filed by the husband, she has moved this transfer petition.

4.The Parliament, while amending the Hindu Marriage Act, has incorporated Section 19(iii), permitting a wife to initiate a proceeding in a place where she is residing. This is an indication to the Court that the convenience of the wife has to be given precedence by the Court. In line with this Parliamentary amendment, this Court and the Supreme Court have consistently held in matters of transfer, the convenience of the wife should be given a superior consideration than that of the husband. As the distance between Tiruchengode and Erode is considerable, I am inclined to accept the transfer.



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5. Accordingly, F.C.O.P.No.381 of 2022 is withdrawn from the file of the learned Family Court at Erode and transferred to the file of the learned Subordinate Judge at Tiruchengode. The learned Subordinate Judge at Tiruchengode, on transfer of the proceedings, shall re-number the same and try it along with HMOP No.17 of 2022, which is said to be pending on his file.

6. The Transfer Civil Miscellaneous Petition is ordered on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025

Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No
KST

To

- 1.The Family Court, Erode.
- 2.The Subordinate Judge, Tiruchengode.



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V. LAKSHMINARAYANAN,J.

KST

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